

Applicant: Gesten, Jeffrey L.
Serial No.: 10/668,380
November 8, 2005

REMARKS

Reconsideration of this application is requested. Applicant appreciates Examiner's indication that claims 1, 2, 4-18 and 23 are allowed. Claims 19-22 have been canceled without prejudice. Applicant has also addressed each of the issues raised under 35 USC Section 103(a) in this Amendment to place this application in condition for allowance pursuant to Examiner's indication. No new matter has been added.

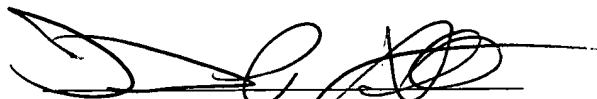
Applicant respectfully traverses the Examiner's rejection of claims 19-22 under 35 USC Section 103(a), as being anticipated by McKay et al in view of Yaskai. Notwithstanding the amendments to the claims, Applicant submits that the claims 19-22 do not read on McKay et al and Yaskai et al and that Applicant's invention as claimed is structurally and fundamentally distinct therefrom, individually and in combination. In addition, neither McKay et al nor Yaskai et al motivate the proffered combination. McKay et al and Yaskai et al fail to disclose the claimed subject matter and are completely different from Applicant's claimed subject matter. It is axiomatic in any proper Section 103 rejection that every element of the invention as claimed be contained or suggested in the cited references combined and that there be a motivation for the combination. Applicant submits that the cited art is structurally distinct from Applicant's claimed invention in claims 19-22 and fail to render these claims obvious. Notwithstanding, Claims 19-22 have been canceled, without prejudice, to place the application in condition for allowance.

Applicant: Gesten, Jeffrey L.
Serial No.: 10/668,380
November 8, 2005

For the reasons indicated above, Applicant asserts that claims 1, 2, 4-18 and 23 patentably distinguish Applicant's invention over the prior art of record, and are in condition for allowance. Applicant respectfully requests that the above rejections be reconsidered and withdrawn since the overall invention, as recited in Applicant's claims is neither taught nor suggested by the cited prior art.

Should the Examiner have any concerns or comments, the undersigned would appreciate a telephone conference in order to expedite this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Lhota', written over a horizontal line.

David P. Lhota, Reg. No. 39,275
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
Suite 1900, 200 East Broward Boulevard
Fort Lauderdale, FL 33301
(954) 462-9576



APPLICANT : Jeffrey L. Gesten
SERIAL NO. : 10/668,380
FILED : 09/23/2003
FILE NO. : 4846.001

CERTIFICATE OF MAILING

I HEREBY CERTIFY that the following correspondence: ***AMENDMENT IN RESPONSE TO OFFICE ACTION DATED AUGUST 8, 2005; and RETURN POSTCARD FOR CONFIRMATION OF RECEIPT*** is being deposited with the United States Postal Service as first class mail with sufficient postage in a prepaid envelope addressed to: Mail Stop Non-Fee Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 8th day of November, 2005.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.



Sherri G. Newcomb

Date: 11/08/2005

STEARNS WEAVER MILLER WEISSLER ALHADEFF & SITTERSON, P.A.
200 East Las Olas, Suite 2100
Fort Lauderdale, Florida 33301
(954) 462-9500